

IN SENATE OF THE UNITED STATES.

APRIL 6, 1848.

Submitted, and ordered to be printed.

Mr. ASHLEY made the following

REPORT:

[To accompany bill S. No. 195.]

*The Committee on Public Lands, to whom was referred the memorial of William Wynn, report:*

At the second session of the 27th Congress, the memorialist applied to Congress for an act to authorize him to enter, at the government price, three settlement rights, purchased by him for a valuable consideration, situate on the southwest side of Red river, which, before the ascertainment of the boundary line between the republic of Texas and the United States, had been granted by that republic. The three tracts, together, contained 13,863 acres. The memorialist purchased in good faith, paid a fair price for these lands, and improved them at great cost.

The merits of the case are more particularly set forth in the following report of the Committee on Private Land Claims, who examined it with care and attention at the time it was first brought before Congress:

“The memorialist has discovered, since the boundary line has been established between Texas and the United States, that these lands are in the territory of the latter. Hence he admits his title a nullity, and prays to have a pre-emptive right to purchase of the United States at the minimum price of one dollar and a quarter per acre, and by letter solicits the privilege to do this on terms of payment of one-third in cash, and the other two-thirds in two successive years. These three tracts are of irregular shape, but appear to be all connected, and as falling in with the surveys of the United States; are represented to be within the sections 18, 19, 20, 17, 8, 9, 10, 7, 3, 4, 21, 27, 28, 29, 30, 33 and 34 of township 16 south, range 26; and sections 17, 20, 28, 29, 19 and 30 of township 15 south, range 25 west.

“It is known to this committee, as it is generally known to the public, that the ascertainment of the boundary line between the United States and the former Spanish territory, now comprised in

the territory of Texas, has been an agitated question for many years, as well as before the sovereignty of Texas as perpetually since, until concluded within the last year. The *fact* of the boundary being so unsettled, was a question of such notoriety that the allegation of settlement in good faith upon the controverted border, under the grant or pretensions of either government, does not strike the committee with much force. On the contrary, it is a matter of no inconsiderable notoriety that the authorities of Texas, less observant of such neutrality and reserve as became the circumstances of the case, than was the government of the United States, permitted, if not directly encouraged, the locations of claims and rapid settlement upon this border, so known to be in controversy. And the individuals engaged, prompted by their interests to conjecture the line would fall most favorable to the jurisdiction of Texas, prosecuted these locations and settlements as matters of speculation, when, if the impropriety of obtruding on converted territory was not felt, the hazard of the supposed title they acquired was certainly apparent. And officially informed, as we now are, that, though the line recently established runs considerably further east into the heretofore reputed territory of Louisiana and Arkansas than was anticipated by this government, yet these Texas grants and settlement rights, under the authorities of Texas, are found east of the line so established, of which those claimed by the petitioner are an example.

“ But while the committee view these claims, so defective, if not destitute of original equity, yet as being settled under pretext of sovereign authority, and in favor of the actual settlement and improvements made by the petitioner’s vendors, and in favor of his further actual improvement and expenditure, indicating his good faith and confidence in the title obtained; and assuming, as informed, that there is no adverse claimant to the land possessed by petitioner but the government of the United States: the committee make a favorable response to the prayer of the petitioner, so far as to permit him a right of pre-emption, not interfering with other pre-emption rights acquired under the general laws of Congress, and with such other restriction as is contained in a bill herewith reported.”

In accordance with the recommendations of the committee, an act passed granting to the memorialist the right of pre-emption to the lands in question. But in consequence of a mistake which accidentally occurred in the act, in giving a wrong number to the range, in which by far the largest portion of the lands lay, and which it was the intention of the act to grant, the memorialist could not make his entries, and was thus deprived of nearly the whole of the lands which Congress intended he should enter, amounting in the aggregate to 12,950 acres.

Afterwards, at the first session of the 28th Congress, the memorialist applied to Congress to correct the error, and allow him his right of entry to the lands, according to the original purpose of the act, and the Committee on Private Land Claims made a favorable report on the application. A bill passed the Senate for his relief,

but failed in the House of Representatives, as is supposed, for the want of time to act on it. In the meantime, the effect of this mistake in the act was to keep him from making his entries, and subsequent claims attached to the lands, so as effectually to exclude him from all hope of benefit by the correction of the error, without infringing the rights of persons who acquired their rights, wholly ignorant of the existence of the equity of the memorialist's claim, and the legal obstacle which prevented his obtaining the lands desired.

The original claim of the memorialist was for 13,863 acres. Under the act which passed, and the intention of which was to give him the right of pre-emption to that quantity, he only entered 913 acres, and thus, as above stated, he was, by a mere accident in the mis-numbering of the range in which the lands lay, deprived of 12,950 acres, which it was the intention of the act he should enter, and which he would have entered but for the reason stated.

The memorialist now appears before Congress seeking, not the correction of this error, which cannot now be corrected without impairing the rights of innocent people, but to obtain permission to enter other lands as an equivalent for those of which he has been deprived. The committee regard his case as one of peculiar hardship, and presenting strong claims upon the justice and equity of Congress. They, therefore, report a bill, allowing him the right of pre-emption to the lands which he now wishes to enter.

